

day's proceedings. Such remarks had been deleted by the House pursuant to the adoption of a motion to expunge made by Mr. John E. Rankin, of Mississippi. Following debate, an inquiry was heard from Mr. Hoffman as to whether the Chair had ruled on the question of the privilege of the House. Responding to the inquiry, the Speaker⁽¹⁶⁾ stated:

The House would have to decide that, and, in the opinion of the Chair, the House did decide the matter when it expunged the remarks from the Record. The Chair thinks, under the circumstances, that the proper way to reopen the question would be by a motion to reconsider the vote whereby the motion of the gentleman from Mississippi [Mr. Rankin] was adopted. The Chair is of the opinion that inasmuch as the question raised by the gentleman from Michigan was decided by a vote of the House on a proper motion, that he does not now present a question of privilege of the House or of personal privilege.

§ 12. Enforcement of Committee Orders and Subpenas

Warrants Detaining Committee Witnesses

§ 12.1 A resolution authorizing the Speaker to issue a war-

16. Sam Rayburn (Tex.).

rant commanding the detention of a committee witness, based on allegations that attempts had been made by the Senate to deprive the committee of such witness' presence, gave rise to a question of the privilege of the House.

On Aug. 15, 1935,⁽¹⁷⁾ Mr. John J. O'Connor, of New York, rose to a question of the privilege of the House and offered a resolution⁽¹⁸⁾ authorizing the Speaker to issue a warrant commanding the bodily detention of a committee witness, it being alleged that attempts had been made by the Senate to deprive the committee of such witness' presence. The resolution stated:

Whereas the House did on July 8, 1935, adopt a resolution, House Resolution 288, authorizing the Committee on Rules to investigate any and all charges of attempts or attempts to intimidate or influence Members of the House of Representatives with regard to the bill S. 2796 or any other bills affecting public-utility holding companies during the Seventy-fourth Congress by any person, partnership, trust, association, or corporation;

Whereas under the authority conferred upon said Committee on Rules by said House Resolution 288, the said committee had caused to be issued a subpoena directed to H.C. Hopson to ap-

17. 79 CONG. REC. 13289, 13290, 74th Cong. 1st Sess.

18. H. Res. 340.

pear before said committee and to testify concerning the matters committed to the said Committee on Rules for investigation. . . .

Whereas agents of another body have attempted to serve the said H.C. Hopson at 11:30 a.m. on August 14 with a subpoena in order to compel the said H.C. Hopson to appear before another body forthwith to give testimony.

. . . Whereas any interference with the proper proceeding of the Committee on Rules in the investigation committed to them by House Resolution 288 is an invasion of the prerogatives and privileges of the House of Representatives. . . .

. . . Therefore, be it

Resolved, That the Speaker of the House of Representatives issue his warrant commanding the Sergeant at Arms of the House of Representatives, or his deputy, to take into custody the body of H.C. Hopson wherever found; that the said Sergeant at Arms, or his deputy, shall keep in custody the said H.C. Hopson until such time as the Committee on Rules shall discharge him.

Provided, however, That the said witness may be available for examination by the Senate Committee at such times as his attendance is not required by the House Committee.

A point of order was raised by Mr. John E. Rankin, of Mississippi, asserting that the resolution did not give rise to a question of the privilege of the House. Following some debate, the point of order was overruled by the Chair, the Speaker⁽¹⁹⁾ stating:

19. Joseph W. Byrns (Tenn.).

. . . As the Chair construes the resolution, it involves the dignity and authority of the House. The House has authority to protect its own agents and its own committees in the discharge of the duties vested in them. It seems to the Chair that this is distinctly a matter of privilege for the consideration of the House. . . .

The Chair repeats that the resolution is one which involves the dignity and authority of the House in protecting its committees, which in this instance happens to be the Committee on Rules, in the investigation which it has been authorized to make. The Chair overrules the point of order.

Orders Relating to Refusal of Witness to Be Sworn

§ 12.2 A committee report relating the refusal of a witness to be sworn to testify before a House subcommittee involves a question of the privilege of the House.

On Sept. 10, 1973,⁽²⁰⁾ Mr. Lucien N. Nedzi, of Michigan, rose to a question of the privilege of the House and offered a report⁽¹⁾ from the Committee on Armed Services informing the House of the refusal of George Gordon Liddy to be sworn or to testify before its duly authorized subcommittee. Following the presen-

20. 119 CONG. REC. 28951, 28952, 28959, 28960, 28962, 28963, 93d Cong. 1st Sess.

1. H. REPT. No. 93-453.

tation of the committee report, the House agreed to a privileged resolution⁽²⁾ offered by Mr. Nedzi directing the Speaker⁽³⁾ to certify to the appropriate United States attorney the refusal of the witness to be sworn to testify before a subcommittee of the Committee on Armed Services.

Parliamentarian's Note: Based upon the precedent in the 92d Congress, first session, July 13, 1971,⁽⁴⁾ Representative Nedzi was advised that a committee report on the contempt of a witness could be brought to the floor on the same day as filed and that the requirement for a three-day layover under Rule XI clause 27(d)(4) did not apply.

Enforcement of Subpena Duces Tecum

§ 12.3 A committee report relating the refusal of a witness to respond to a subpoena duces tecum issued by a House subcommittee gives rise to a question of the privilege of the House.

On July 13, 1971,⁽⁵⁾ Mr. Harley O. Staggers, of West Virginia, rose

to a question of the privilege of the House and submitted a report⁽⁶⁾ from the Committee on Interstate and Foreign Commerce informing the House of the refusal of Frank Stanton, president of CBS, to respond to a subpoena duces tecum issued by a subcommittee of the committee. Subsequent to the presentation of the committee report, a privileged resolution⁽⁷⁾ was offered by Mr. Staggers directing the Speaker⁽⁸⁾ to certify the report of the House committee on the contemptuous conduct of the witness to the appropriate United States attorney. Some debate on the resolution ensued, at the conclusion of which the previous question on the resolution was moved by Mr. Staggers. Thereupon, Mr. Hastings Keith, of Massachusetts, asserting his opposition to the resolution, offered a motion to recommit the resolution to the Committee on Interstate and Foreign Commerce. The motion to recommit was agreed to.

2. H. Res. 536.

3. Carl Albert (Okla.).

4. 117 CONG. REC. 24720-23.

5. 117 CONG. REC. 24720-23, 92d Cong. 1st Sess. For additional examples

see 112 CONG. REC. 27439-513, 27641, 89th Cong. 2d Sess., Oct. 18 and 19, 1966; 80 CONG. REC. 8219-21, 74th Cong. 2d Sess., May 28, 1936.

6. H. REPT. No. 92-349.

7. H. Res. 534.

8. Carl Albert (Okla.).